

Message Text

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LIMDIS

FOR: BREWSTER (D/LOS) AND KRUSE (EUR/CAN)

FROM: US LOS DEL

E.O. 11652: XGDS-3

TAGS: PLOS

SUBJ: LOS: US-CANADIAN BILATERALS

1. CANADA IS THE WORLD'S LARGEST NICKEL PRODUCER AND WILL BE MOST THREATENED BY SEABED MINING. FOR 5 YEARS IN LOS NEGOTIATIONS, CANADA HAS KEPT A LOW PROFILE, HOPING THAT THE DEVELOPING COUNTRY COPPER PRODUCER WOULD PRESSURE THE U.S. TO ACCEPT A SYSTEM OF PRODUCTION CONTROL WHICH WOULD HAVE THE EFFECT OF PROTECTING CANADIAN NICKEL, WITHOUT THE CANADIANS HAVING TO SURFACE A PROPOSAL OF THEIR OWN.

2. AT THE LAST SESSION THE SECRETARY AGREED TO A TEMPORARY PRODUCTION LIMIT UNDER ARTICLE 9 WHICH WAS VERY CAREFULLY DESIGNED TO GIVE PROTECTION TO DEVELOPING COUNTRY COPPER PRODUCERS BUT WHICH HAS NO PRACTICAL IMPACT ON NICKEL PRODUCTION.

3. CANADIANS CLAIM, WITHOUT ANY JUSTIFICATION IN THE TREATY

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TEXT THAT WE CAN FIND, THAT THE TEXT GIVES A PRIORITY

AND A PREFERENCE TO SEABED NICKEL PRODUCTION UP TO THE FULL GROWTH SEGMENT OF THE NICKEL MARKET DURING THE 20 YEAR PERIOD IN WHICH IT WOULD APPLY, THUS PREJUDICING LAND-BASED PRODUCERS OF NICKEL. CANADA HAS MADE ITS POSITION KNOWN THROUGHOUT THE CONFERENCE AND HAS DECIDED TO ATTEMPT TO REOPEN THE COMPROMISE ON TREATY ARTICLE 9 AND PARAGRAPH 21 OF ANNEX I. CANADA HAD INFORMALLY CIRCULATED A PROPOSAL WHICH IN PRACTICAL TERMS COULD HAVE THE EFFECT OF REDUCING THE ALLOWABLE PRODUCTION FROM THE SEABED FROM THE FULL 6PERCENT COMPOUNDED GROWTH IN THE MARKET TO PERHAPS 3 PERCENT. CANADIANS ARE NOW CIRCULATING TO SELECTED OTHER COUNTRIES AND CONSULTING WITH THEM ON A MORE REFINED PROPOSAL WHICH IS MORE MODEST, BUT THEY HAVE NOT GIVEN US A COPY. WE RECENTLY SUGGESTED BILATERAL NEGOTIATION TO THEIR COMMITTEE I REPRESENTATIVE WHO SAID HE SAW NO USEFUL PURPOSE IN CONSULTING WITH THE U.S. SINCE HE HAD CLEAR INSTRUCTIONS TO FIGHT THE COMPROMISE ARTICLE 9.

4. THE CANADIAN DELEGATION ALSO BELIEVES WE INADEQUATELY CONSULTED THEM AT THE LAST SESSION OF THE CONFERENCE AND SHOULD NOT HAVE AGREED ON ARTICLE 9 WITHOUT KNOWING THEIR VIEWS. WE HAVE TOLD THEM THAT AT NO TIME IN THIS CONFERENCE HAVE THEY INDICATED TO US OR TO THE CONFERENCE THAT THEY WISHED TO SEE ANY PROTECTION IN THE TREATY FOR CANADIAN NICKEL. ACCORDINGLY, WE FELT THAT IF WE AGREED TO A PRODUCTION LIMIT WHICH HAD NO IMPACT ON NICKEL, CANADA WOULD NOT BE CONCERNED.

5. THE BASIC PROBLEM IS THAT, IF CANADA PERSISTS IN STRONG OPPOSITION TO ARTICLE 9, COMMITTEE I WILL EVENTUALLY TURN AGAINST US AND FORCE US TO NEGOTIATE A COMPROMISE WITH CANADA WHICH MIGHT INVOLVE A REAL LIMITATION ON SEABED PRODUCTION RATHER THAN A COSMETIC ONE.

6. THE U.S. ORIGINALLY FAVORED (AND STILL PREFERS) THAT THERE BE NO PRODUCTION LIMITATION ON SEABED MINING. HEAVY PRESSURES FROM MAJOR DEVELOPING COUNTRY LAND-BASED COPPER PRODUCERS (CHILE, ZAIRE, ZAMBIA) FOR
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ASSURANCE THAT DEEP SEABED MINING WOULD NOT SERIOUSLY CUT INTO THEIR MARKETS IN FUTURE YEARS LED TO U.S. AGREEMENT ON A FORMULA WHICH THEORETICALLY LIMITS PRODUCTION BUT HAS NO PRACTICAL EFFECT. THE FORMULA IS EXPRESSED IN TERMS OF THE GROWTH MARKET OF MICKEL, THE MINERAL MOST LIKELY TO BE MINED COMMERCIALY, BUT IT ALSO WOULD PROVIDE A FORM OF GUARANTEE FOR LDC COPPER PRODUCERS, THE FORMULA ASSURES THAT CURRENT

LAND-BASED NICKEL PRODUCTION LEVELS WILL CONTINUE TO HAVE A MARKET FOR THE NEXT TWENTY (WITH POSSIBLE FIVE-YEAR EXTENSION). IT ALSO PERMITS (BUT DOES NOT REQUIRE OF RESERVE) SEABED PRODUCTION OF NICKEL TO COMPETE FOR FUTURE GROWTH IN NICKEL DEMAND.

7. THERE APPEARS TO BE BOTH MISUNDERSTANDING OF THE COMPROMISE ARTICLE 9 AND ALSO SUSPICION OF ITS INTENDED PURPOSE ON THE PART OF THE CANADIANS. FIRSTLY, SOME APPARENTLY BELIEVE THAT ARTICLE 9 RESERVES INCREMENTS IN NICKEL DEMAND TO SEABED MINING; IN FACT, THE LANGUAGE MAKES CLEAR THAT THE FIGURE REPRESENTS ONLY AN UPPER LIMIT ON POTENTIAL SEABED PRODUCTION. SECONDLY, SOME CANADIANS BELIEVE THAT THE U.S. MIGHT USE THIS PROVISION TO REDUCE ITS NICKEL IMPORTS FROM CANADA BY SUBSIDIZING UNECONOMIC SEABED PRODUCTION OF NICKEL UP TO THE ARTICLE 9 LIMIT. MINISTER EXTERNAL AFFAIRS MACEACHEN RAISED THE CANADIAN CONCERN WITH YOU IN NAIROBI.

8. SUGGESTED TALKING POINTS-

-- WE ARE CONCERNED ABOUT CANADA'S POSITION ON THE PROPOSED UPPER LIMIT ON SEABED PRODUCTION NEGOTIATED AT THE SPRING LOS SESSION AND BELIEVE IT RESULTS FROM A MISUNDERSTANDING OF OUR POSITION. THE U.S. WOULD PREFER TO HAVE NO PRODUCTION LIMITATION AT ALL, AND HAS AGREED TO THE SIX PERCENT CEILING ONLY IN RESPONSE TO LDC COPPER PRODUCERS' CONCERNS AND ON THE BASIS THAT IT REPRESENTS NO PRACTICAL CEILING.

-- THE LIMIT IS A CEILING ON SEABED PRODUCTION,
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AND DOES NOT IN ANY WAY RESERVE A SEGMENT OF THE FUTURE NICKEL MARKET FOR SEABED PRODUCTION. SEABED PRODUCTION WOULD TAKE PLACE ONLY ON THE BASIS OF STRICTLY COMPETITIVE COMMERCIAL CONSIDERATIONS, WITHOUT SUBSIDY BY SPONSORING COUNTRIES, INCLUDING THE UNITED STATES. IF CANADIANS CAN SHOW US HOW THE TEXT PREJUDICES LAND-BASED PRODUCTION WE ARE PREPARED TO MAKE CHANGES IN THE TEXT TO CORRECT THIS INTERPRETATION.

-- THE U.S. AND CANADIAN GOVERNMENTS HELD BILATERAL CONSULTATIONS IN WASHINGTON AT THE ASSISTANT SECRETARY LEVEL, AND THIS MATTER WAS REVIEWED IN-DEPTH AND WITH CARE. WE GATHERED FROM THAT MEETING THAT THE CANADIAN GOVERNMENT WANTED TO ASSESS THE SITUATION

AGAIN IN LIGHT OF OUR EXPLANTION. WE ARE HOPING
THAT BEFORE THIS MATTER IS RAISED PUBLICLY IN COM-
MITTEE I, WE CAN HAVE RENEWED BILATERAL CONSULTATIONS
WITH CANADA TO DETERMINE WHETHER A PROBLEM STILL
EXISTS AND, IF IT DOES CONSIDER POSSIBLE SOLUTIONS
TO IT.

-- WE WOULD STRONGLY URGE THAT CANADA NOT TAKE THIS
MATTER TO COMMITTEE I UNTIL ALL POSSIBLE EFFORTS
TO REACH AN UNDERSTANDING BILATERALLY HAVE BEEN
EXHAUSTED. IF CANADA TAKES THIS SUBJECT TO THE
COMMITTEE AT THIS TIME, WE WILL BE FORCED
TO TAKE A COMPLETELY INTRACTABLE POSITION.
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